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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,423	07/06/2001	John E. Sell	NUFO005	4970

7590 03/31/2003  
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EXAMINER
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VY, HUNG T

ART UNIT	PAPER NUMBER
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2828

DATE MAILED: 03/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/900,423

Applicant(s)

SELL ET AL.

Examiner

Hung T Vy

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on the amendment filed on 1-30-2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

  
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## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. In response to the amendment filed on 01/30/2003, claims 1- 38 are pending in this application as a result of the addition of claims 38.

### **Claim Rejections - 35 USC § 112**

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-38 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1,22 and 33, the phrase " an external cavity" renders the claim indefinite because it is unclear what is external cavity. The claim is not clear how a hermitically sealable container configured to enclose external laser in an inert atmosphere. Further, the claim fails to provide any structure for laser apparatus. Is there the laser put gas in side hermitically sealable container or what.

Regarding claim 12, the claim is not clear because the claim recites the laser apparatus but in the claim, the applicant does not recite any laser, the applicant recites just only the gain medium. It is not clear what conform laser structure in claim.

Claims 2-13, 15-21 and 23-38 depend from rejected claim 1 and 22 thereby render these dependent claims indefinite.

### **Claim Rejections - 35 USC § 102**

3. The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 in view of the AIPA and H.R. 2215 that forms the basis for the rejections under this section made in the attached Office action:

**A person shall be entitled to a patent unless -**

**(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.**

35 U.S.C. § 102(e), as revised by the AIPA and H.R. 2215, applies to all qualifying references, except when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. For such patents, the prior art date is determined under 35 U.S.C. § 102(e) as it existed prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. § 102(e)).

Claims 1-38 are rejected under 35 U. S. C. § 102 (e) as being anticipated by Flanders, U.S. patent No. 6,366,592.

Regarding claims 1-3, 11, 20-21, 33 and 35-38, Flanders discloses a laser apparatus comprising an external cavity laser (see column 3, line 55) and laser source therein (422) (See fig 10), and a hermetically sealable container (110) (see column 3, line 51-52) configured to enclose external cavity laser. It is inherent that the apparatus, wherein said inert atmosphere is moisture controlled because Flanders discloses the hermetically sealable container is hermetic and constructed from a mechanically and temperature stable substance (see column 3, line 50-65) and external cavity laser is tunable (see column 1, line 55-57)

Regarding claim 12-13, it is inherent that the apparatus, wherein said inert atmosphere is a gas in order to improve the stable and long life for device. Further, Flanders disclose an optical fiber (112) extending into said hermetically sealable container (see fig 1) and positioned to receive optical output from said external cavity, and a fiber feed through, configured to hermitically seal said optical fiber (See fig 1).

Regarding claims 4 -10, 14-19, and 34, Flandres discloses the apparatus, wherein said external cavity laser in hermetically sealable container (110), a gain medium (422) having a first and second output facets, second output facet having anti-reflective coating thereon (See column 6, line 61-67 and column 7, line 1-7), external cavity laser comprises a grid generator (716) and a tuning assembly operatively coupled to said channel selector (714) and configured to adjust said channel selector (see fig 10).

With respect to claims 22-32, the methods for fabricating a laser are considered as product by process steps.

### **Response to Arguments**

4. Applicant's argument with respect to claims 1-38 have been considered but are moot in view of the new ground of rejection.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### **Conclusion**

6. When responding to the office action, Applicants are advised to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist the examiner to locate the appropriate paragraphs.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung VY whose telephone number is (703) 605-0759. The examiner can normally be reached on Monday-Friday 8:30 am - 5:30pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul IP can be reached on (703) 308-3098. The fax numbers for the

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organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



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March 20, 2003